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FEDERAL COMMUNICATIONS COMMISSION
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BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

In the Matter of

Simplification of the
Depreciation Prescription
Process

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CC Docket No. 92-296

REPLY COMMENTS OF SOUTHWESTERN BELL TELEPHONE COMPANY

SOUTHWESTERN BELL TELEPHONE COMPANY

Robert M. Lynch
Richard C. Hartgrove
Robert J. Gryzmala

Attorneys for
Southwestern Bell Telephone Company

One Bell Center, Room 3520
St. Louis, Missouri 63101
(314) 235-2507

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Table of Contents

<u>Subject</u>	<u>Page</u>
SUMMARY	i
I. MEANINGFUL DEPRECIATION SIMPLIFICATION CAN BE ACHIEVED ONLY BY ESTABLISHING RANGES FOR ALL ACCOUNTS, BROADENING THE RANGES ALREADY PROPOSED, BASING RANGES ON FORWARD-LOOKING DATA AND SUBJECTING RANGES TO AN ANNUAL REVIEW .	1
A. Ranges Should Be Established For All Plant Accounts As Soon As Possible	2
B. The Ranges Should Be Broad Enough To Realize Meaningful Simplification	3
C. Ranges Should Be Based On Forward-Looking Data . .	6
D. Range Reviews Should Be Conducted Annually	8
II. THE COMMENTS OF THE MISSOURI PUBLIC SERVICE COMMISSION ARE MISLEADING, MISINFORMED AND IRRELEVANT	9
A. The MoPSC's Comments Are Misleading	9
B. The MoPSC Is Misinformed About The Purpose Of This Docket	10
C. In Any Event, The MoPSC's Comments Are Irrelevant To The Interstate Jurisdiction	12
III. RANGES FOR DEPRECIATION RATE CATEGORIES SHOULD BE MAINTAINED	13
IV. CONCLUSION	14

SUMMARY*

The Commission has sought to advance three goals regarding the depreciation prescription process -- simplification, administrative savings and flexibility -- while also continuing to ensure that consumers pay just and reasonable tariffed rates. Implementing four specific suggestions would best ensure that these goals are achieved.

First, the Commission should establish ranges for all plant accounts as soon as practicable. Second, the Commission's proposed ranges for the already selected twenty-two accounts should be broadened sufficiently to allow more simplified treatment for these accounts. Third, ranges should be based on forward-looking data to reflect the competitive and technological changes rapidly taking place in the telecommunications industry. Finally, the Commission should conduct annual reviews of the established ranges because less frequent reviews would not permit these industry changes to be identified and accurately assessed in a timely manner.

The miscellaneous criticisms by the Missouri Public Service Commission should be dismissed. Its views are entitled to no weight in light of its expressed intention to depart from this Commission's depreciation policies whenever it sees fit. Its comments are misleading and beside the point.

The Commission should also allow LECs to maintain smaller subdivisions of depreciation rate categories.

* All abbreviations used herein are referenced within the text.

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REPLY COMMENTS OF SOUTHWESTERN BELL TELEPHONE COMPANY

Southwestern Bell Telephone Company ("SWBT"), by its attorneys, files this reply to comments on the Commission's Order Inviting Comments ("OIC") in its Depreciation Simplification Proceeding.¹

- I. MEANINGFUL DEPRECIATION SIMPLIFICATION CAN BE ACHIEVED ONLY BY ESTABLISHING RANGES FOR ALL ACCOUNTS, BROADENING THE RANGES ALREADY PROPOSED, BASING RANGES ON FORWARD-LOOKING DATA AND SUBJECTING RANGES TO AN ANNUAL REVIEW.

The Commission should maximize the opportunity to fully achieve its stated objectives of simplification, administrative savings and flexibility regarding the depreciation prescription process.² SWBT submits that implementing four specific suggestions, as explained below, would present that opportunity.

¹ In the Matter of the Simplification of the Depreciation Prescription Process ("Depreciation Simplification Proceeding"), CC Docket No. 92-296, Order Inviting Comments ("OIC"), FCC 93-492, released November 12, 1993.

² Depreciation Simplification Proceeding, CC Docket No. 92-296, Report and Order, FCC 93-452, released October 20, 1993 ("Depreciation Simplification Order"), para. 3.

A. Ranges Should Be Established For All Plant Accounts As Soon As Possible.

In its OIC, the Commission reaffirmed that ranges should be established for as many plant accounts as practicable.³ The OIC thus proposed to establish ranges initially for twenty-two plant categories, and directed the Common Carrier Bureau ("Bureau") to recommend ranges for the remaining accounts as soon as feasibly possible.⁴ In its opening comments, SWBT heartily endorsed this directive because expeditiously establishing ranges for all categories clearly would advance achievement of the many benefits offered by depreciation simplification.⁵

SWBT and several other local exchange carriers ("LECs") pointed out that the twenty-two accounts for which the Commission proposed to now establish ranges amount to less than 40% of their plant investment. As a result, LECs would be required to continue using the Commission's non-simplified depreciation process for over 60% of their investment,⁶ a consequence not in keeping with the Commission's stated objectives. Even MCI recognizes that the maximum benefits of simplification can be achieved only after the Commission establishes ranges for all accounts.⁷ Thus, the need to

³ OIC, para. 4, citing, Depreciation Simplification Order.

⁴ OIC, para. 5.

⁵ Comments of SWBT Regarding OIC ("SWBT Comments"), at 3-4.

⁶ Ameritech Comments, at 6-7; Bell Atlantic Comments, at 2; BellSouth Comments, at 2; Pacific Bell and Nevada Bell Comments, at 2; SWBT Comments, at 5; U S West Comments, at 2.

⁷ MCI Comments, at 2.

establish ranges for all accounts as soon as possible must be met if the Commission's stated objectives are to be realized.

In addition, some state regulatory bodies agree that greater benefits would be enjoyed by expanding the number of accounts for which ranges should be established to include all remaining accounts. For example, the Utah Department of Commerce, Division of Public Utilities states that "real simplification and potential time and expense savings of the process cannot be realized without all accounts being included in the process."⁸ In addition, the Oklahoma Corporation Commission supports including the remaining accounts as soon as possible.⁹

These state regulatory bodies, LECs such as SWBT, and the Commission have a common goal -- to maximize the benefits intended by the overall simplification process -- and agree that ranges should be established for all remaining accounts as soon as possible. Therefore, SWBT continues to urge the Commission to do so.

B. The Ranges Should Be Broad Enough To Realize Meaningful Simplification.

Most commentators point out that, apart from the need to establish ranges for a greater number of accounts, the proposed ranges for the accounts identified in the OIC must be broadened --

⁸ Comments of Utah Department of Commerce, Division of Public Utilities Commission ("Utah Commission"), at 1 (emphasis added). The Utah Commission also stated that real simplification cannot be realized yet because of the exclusion of all major plant accounts that have caused most of the past disagreements between LECs and regulators.

⁹ Oklahoma Corporation Commission Comments, at 3.

the ranges as proposed are too narrow to achieve meaningful depreciation simplification.¹⁰ SWBT reiterates its support for this position. Meaningful simplification may be realized only if the widths of the ranges are sufficiently broad to allow more simplified treatment.

SWBT also joins in Ameritech's position that the proposed ranges should be no less broad than those that would apply to the accounts of interexchange carriers ("IXCs"). Ameritech correctly points out that such similarity in treatment is warranted because the plant used and services provided by LECs and IXCs are, and historically have been, similar in many respects.¹¹ Indeed, MCI's recent announcement to compete aggressively in the local exchange market eliminates any lingering doubt about the similarity between the LECs' plant and services and those of the IXCs.¹²

MCI suggests that the ranges are reasonable as proposed, reasoning that they would adequately reward a carrier's past

¹⁰ Ameritech Comments, at 3-7; Bell Atlantic Comments, at 2-3, 5-8; BellSouth Comments, at 2-6; GTE Comments, at 2-3; NYNEX Comments, at 2-5; Pacific Bell and Nevada Bell Comments, at 2-4; SNET Comments, at 2-3, 5; SWBT Comments, at 2-5; U S West Comments, at 2-7; USTA Comments, at 9-12.

¹¹ Ameritech Comments, at 4-5.

¹² MCI recently announced that it would invest over \$20 billion in its infrastructure, including \$2 billion in fiber rings and local switching in major U.S. metropolitan markets. It plans to connect directly to customers and provide them alternative local telecommunications facilities. According to the release, MCI owns properties and rights-of-way in several hundred cities and is currently the fourth largest competitor to the Bell Operating Companies in providing local access to long distance service. MCI plans to begin offering alternative local telecommunications services in competition with SWBT and other LECs by mid-1994, without having to abide by the same restrictive rules governing LECs.

modernization efforts.¹³ MCI's reasoning is flawed because it mistakenly presumes that new plant investment must actually occur before the pace of recovery should be accelerated due to shorter service lives on existing plant.

It is also important to note that the purpose of depreciation is not to fund new investment in a LEC's plant, but instead, to recover that plant which is already in place.¹⁴ There is only an indirect relationship between the timing of actual new plant investment and the need to depreciate older plant more quickly. To the extent that new plant investment is made to respond to market changes, customer demand, and technological advances, such new plant investment generally displaces older plant, thereby shortening the older plant's life.

Any prudent business operation, presumably including MCI, typically adjusts its depreciation rates based on its latest view of its network plans (and thus, the impact those plans have on plant lives). It does not defer such adjustments by waiting until a point in time after the new plant is actually placed into service.

Surely MCI would not ignore its own future plans when assessing its plant lives, and it has not suggested that it does so. While MCI's concurrence may serve its objective of hindering the LECs' progress toward a process that yields reasonable

¹³ MCI Comments, at 2, 4-5.

¹⁴ Public Utility Depreciation Practices, Depreciation Subcommittee of the National Association of Regulatory Utility Commissioners, at 82 (para 2.a.) (1968).

depreciation rates, it certainly does not reflect the process MCI likely employs in its own business operations.

Thus, even if the breadth of the ranges to be determined by the Commission were in some way tied to network modernization considerations, broader ranges are still necessary to fairly take them into account. Moreover, the ranges should be based on realistic future infrastructure development, not just the actual past deployment of new plant.

C. Ranges Should Be Based On Forward-Looking Data.

SWBT agrees with other commenting parties that a forward-looking approach to setting ranges should be established. Alternatively, only the most recent prescription data should be employed.

Bell Atlantic accurately states that using purely historical information to establish ranges would result in an unrealistic over-estimation of useful service lives given the rapid changes sweeping the telecommunications industry. SWBT further agrees that:

The delay in recognition of depreciation expense caused by the historic overestimation of useful service life has been recovered through depreciation catch-up and amortizations at the end of the asset-life. The pressure of increasing competition will not allow catch-up in the future and LECs that overestimate the life of their plant will see financial results impaired. Because competitive markets will not allow LECs to recover under-depreciated plant [in the future], the mistakes of the past can not

simply be repeated without putting LECs at a severe economic disadvantage.¹⁵

Indeed, current pressures to reduce interstate access rates, standing alone, confirm that the market will not bear future recovery (from customers) of the past under-recovery of plant.

SWBT also agrees with Pacific Bell's and Nevada Bell's analogy of the threefold aging process caused by the use of historical data to set ranges:

[I]t is old when first reported; it is even older by the time the represcribed rates go into effect and it continues aging through the years until the next represcription is ordered.¹⁶

For these reasons, SWBT strongly believes that any ranges based solely on historical data would result in outdated depreciation parameters insufficient for recovery at a pace dictated by technological and market factors, and thus, would not allow the LECs to fairly compete.

However, were the Commission to completely dismiss a forward-looking approach to setting the ranges, then it should consider using only the most recent prescriptions, as urged by U S West.¹⁷ SWBT agrees that this alternative, while not nearly as correct as a forward-looking approach, would be far more reasonable than the historical approach proposed by the Commission. This approach produces future depreciation rates based on data that is

¹⁵ Bell Atlantic Comments, at 5.

¹⁶ Pacific Bell and Nevada Bell Comments, at 5.

¹⁷ U S West Comments, at 7.

initially up to three years old and not representative of current market or industry conditions.

MCI's recent announcement of its plans to aggressively compete in the local exchange market clearly demonstrates the volatility of the market.¹⁸ The LECs' ability to react to such competitive changes cannot be assured by historical information. Only the forward-looking approach would take into account the rapid changes impacting the dynamic telecommunications industry, changes which will accelerate as the infrastructure plans of President Clinton's Administration are implemented.

D. Range Reviews Should Be Conducted Annually.

In its Petition for Reconsideration and Clarification of the Depreciation Simplification Order,¹⁹ SWBT proposed that a biannual review of the ranges be conducted in lieu of the triennial review proposed by the Commission. A triennial review would not guarantee that the realities of the telecommunications market would be identified and accurately assessed in a timely manner. NYNEX, however, submits that an annual review would best enable the rapidly changing effects of competition and advancing technology to be captured.²⁰ SWBT agrees with the reasoning advanced by NYNEX and thus joins in its proposal to conduct an annual review, with a bi-annual review only as an alternative.

¹⁸ See, n. 12, supra.

¹⁹ SWBT's Petition For Reconsideration and Clarification of the Depreciation Simplification Order, filed December 6, 1993, at 5-6.

²⁰ NYNEX Comments, at 4.

Consistent with the comments stated above (Section I. C.), SWBT further submits that the Commission should incorporate U S West's approach to range-setting (i.e., forward-looking lives) into the annual review process.²¹ At the very least, only the most recent year's prescriptions ought to be considered in the annual review.

II. THE COMMENTS OF THE MISSOURI PUBLIC SERVICE COMMISSION ARE MISLEADING, MISINFORMED AND IRRELEVANT.

The Missouri Public Service Commission's ("MoPSC's") criticisms of permissible range movements, record retention matters and other miscellaneous subjects should be dismissed. They are misleading, without factual basis, and irrelevant to the matters on which the OIC requested comment.

A. The MoPSC's Comments Are Misleading.

The MoPSC's reference to the movement allowed a LEC without justification is misleading and incorrect.²² SWBT does not expect to achieve any range movement without justification, albeit in simplified form, and it is unaware that any other LEC intends to do so.

The MoPSC also suggests that the proposed range of lives for public telephones should be revised upward.²³ The MoPSC implies that the presently proposed range would result in

²¹ U S West Comments, at 6-7.

²² MoPSC Comments, at 3.

²³ MoPSC Comments, at 5.

unjustified movement for this category. Once again, the MoPSC appears to have missed the point, as no movement in this range would be sought by a LEC without justification. No support to the contrary is provided by the MoPSC.

Further, in referring to the rapid accumulation of many LECs' reserves for public telephones, the MoPSC implies that a present state of over-recovery exists in this account. However, regardless of whether a shorter life can be justified by a LEC, the remaining life depreciation rate calculation properly considers the current level of the reserve. Thus, protection against an unjustified depreciation rate or over-recovery of the plant is ensured by the existing remaining life methodology. Therefore, the MoPSC's speculative fear of an unjustified projection life or depreciation rate is unwarranted.

Finally, despite the MoPSC's mischaracterization of the width of the ranges,²⁴ the ranges proposed by the Commission are not unduly broad. Based on the Commission's proposed ranges, only 30% (i.e., 11 of 37) of the categories in SWBT's Missouri operations have both factors falling in the ranges. These categories represent a mere 9.2% of SWBT's investment in Missouri. Once again, the facts simply do not support the MoPSC's criticisms.

B. The MoPSC Is Misinformed About The Purpose Of This Docket.

The MoPSC suggests that the Commission should establish a procedure to ensure proper and adequate accounting and record

²⁴ MoPSC Comments, at 2.

keeping, based on its concern that "companies may fail to maintain records for the range accounts."²⁵ The MoPSC is obviously misinformed about the purpose of this docket, and its suggestion should be dismissed.

First, SWBT is not aware of any proposal during this proceeding that suggests discontinuing any of the Commission's standing record keeping requirements or even inviting comments on the subject. This proceeding addresses filing requirements for depreciation prescription purposes -- not record keeping requirements which are properly dictated by Part 32, Uniform System of Accounts. Second, the MoPSC cites nothing supporting, much less proving, that the Commission's Part 32 requirements would be insufficient in the context of simplified depreciation filings. Consequently, the MoPSC's concern is not only beside the point, but entirely speculative and unfounded.

Furthermore, in an effort to support its record-keeping concerns, the MoPSC made the following, equally false and misleading, assertion:

The [MoPSC] understands that the FCC Staff has had difficulty obtaining [Building] records from the companies, which has frustrated the FCC Staff's efforts at oversight.²⁶

SWBT has responded to all data requests from the Commission's staff and has not received any feedback from the Commission suggesting dissatisfaction with its responsiveness. Likewise, SWBT is not aware of anything in the record in this

²⁵ MoPSC Comments, at 6.

²⁶ MoPSC Comments, at 6, n. 16.

proceeding indicating a lack of industry responsiveness to data requests. If, as the MoPSC claims, the FCC Staff is frustrated by any responses to data requests, then the Staff should notify the industry directly. Since no such notification has been received, SWBT assumes that the MoPSC has been misinformed in this matter.

C. In Any Event, The MoPSC's Comments Are Irrelevant To The Interstate Jurisdiction.

In recent years, the MoPSC has shown little inclination to recognize within its own intrastate jurisdiction the procedures and negotiated parameters applicable to the interstate depreciation process. Although the MoPSC has participated in and has had significant influence in the three-way meetings, three-way agreements have not always been reached nor implemented by the MoPSC. For example, the MoPSC, the Commission and SWBT reached an agreement on plant lives, salvage and curve shapes during the 1989 three-way meeting. However, the MoPSC opposed this very agreement in its 1990 Intrastate Order.²⁷ In addition, three-way agreement was not reached in two of the most significant plant categories during the 1992 three-way meeting.

Indeed, the MoPSC has frankly stated its intention to depart from FCC depreciation policy:

[T]he [Missouri Public Service] Commission does not believe it is sound regulatory policy to place itself in lockstep with the FCC, which has different priorities and different concerns with regard to SWBT and the telecommunications industry. . . . Any precedent that might limit this Commission or future commissions in addressing issues

²⁷ T0-90-98, MoPSC, issued December 18, 1990.

differently than the FCC should be avoided.²⁸

The FCC should not allow commentators like the MoPSC to influence interstate policies when they demonstrate no intention to abide by these policies, but rather, an intention "to pick and choose" among them. Therefore, the MoPSC's gratuitous comments should be disregarded.²⁹

III. RANGES FOR DEPRECIATION RATE CATEGORIES SHOULD BE MAINTAINED.

While SWBT supported ranges for homogeneous subdivisions of accounts,³⁰ Pacific Bell and Nevada Bell propose retention of a LEC's current level of categorization where it is more detailed than the Commission's.³¹ For example, a company should be allowed to further disaggregate its outside plant categories to distinguish between exchange and toll assets, because there could be considerable differences in lives for the assets.

These companies also propose that:

²⁸ Case No. TC-93-224, Issued December 17, 1993, Depreciation Item C, 38-39.

²⁹ The same holds true for NARUC. It candidly states its position that "any basic factor ranges adopted by the FCC are for interstate depreciation purposes only, and that the various state commissions are free to establish depreciation rates for intrastate purposes in whatever manner and at whatever level they deem appropriate." (NARUC Comments, at 6). Clearly some state commissions have no regard for the interstate depreciation prescription policies regardless of what these policies are. Given its unequivocal comments, NARUC has encouraged state regulators to ignore whatever changes are made to simplify the depreciation process. Thus, NARUC's comments should be treated likewise. Moreover, the MoPSC's and NARUC's blatant intention to act independently of the FCC leaves SWBT questioning the validity and necessity of three-way meetings.

³⁰ SWBT Comments, at 8.

³¹ Pacific Bell and Nevada Bell Comments, at 6.

[T]he ranges should be broad enough to reflect the differences in lives that prompted the initial disaggregation of the account into rate categories. At the least, they should cover the composite of the [LEC's] categories to the Commission's rate category level. Moreover, if the composite of a carrier's rate categories is within the permissible range for an account, the carrier should be able to use that range.³²

Because SWBT currently differentiates between exchange and toll outside plant, it agrees with Pacific Bell's and Nevada Bell's proposal to continue to recognize this additional subdivision.

IV. CONCLUSION.

The opportunity to achieve significant benefits as a consequence of depreciation simplification is at hand. Implementing SWBT's suggestions would allow these benefits to become reality. They are concrete, meritorious and should be adopted.

Respectfully submitted,

SOUTHWESTERN BELL TELEPHONE COMPANY

By 

Robert M. Lynch
Richard C. Hartgrove
Robert J. Gryzmala

Attorneys for
Southwestern Bell Telephone Company

One Bell Center, Room 3520
St. Louis, Missouri 63101
(314) 235-2507

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³² Pacific Bell and Nevada Bell Comments, at 6-7.

CERTIFICATE OF SERVICE

I, Katie M. Turner, hereby certify that the foregoing "Reply Comments of Southwestern Bell Telephone Company" in Docket No. 92-296 has been filed this 21st day of January, 1994.

Katie M. Turner

Katie M. Turner

January 21, 1994

International Transcription Serv.,
Inc.
1919 M Street N.W.
Room 246
Washington, D.C. 20554

Attorneys for American Telephone
and Telegraph Company
Francine J. Berry
Robert J. McKee
Peter H. Jacoby
295 North Maple Avenue
Room 3244J1
Basking Ridge, New Jersey 07920

Accounting and Audits Division
2000 L Street, N.W.
Washington, D.C. 20036

Bell Atlantic
Christopher W. Savage
1710 H Street, N.W.
Washington, D.C. 20006

BellSouth Corporation & BellSouth
Telecommunications, Inc.
M. Robert Sutherland
4300 Southern Bell Center
675 West Peachtree Street, N.E.
Atlanta, GA 30375

California Cable Television Assoc.
Frank W. Lloyd
Mintz, Levin, Cohn, Ferris,
Glovsky and Popeo, P.C.
701 Pennsylvania Avenue, N.W.
Suite 900
Washington, D.C. 20004

Cincinnati Bell Telephone Company
Attorneys For
Thomas E. Taylor
William D. Baskett III
Christopher J. Wilson
2500 PNC Center
201 E. Fifth Street
Cincinnati, OH 45202

Cincinnati Bell Telephone Company
of Counsel:
Frost & Jacobs
2500 PNC Center
201 E. Fifth Street
Cincinnati, OH 45202

Colorado Public Utilities Commission
Robert E. Temmer, Chairman
Anthony Marquez, Esq., Attorney
General
Office Level 2
1580 Logan Street
Denver, CO 80203

General Services Administration
Allie B. Latimer
Vincent L. Crivella
Michael J. Ettner
18th & F Streets, N.W., Rm. 4002
Washington, D.C. 20405

GTE Service Corporation
Richard McKenna
P.O. Box 152092
Irving, TX 75015-2092

GTE Service Corporation
Gail L. Polivy
1850 M Street, N.W.
Suite 1200
Washington, DC 20036

Idaho Public Utilities Commission
Marsha H. Smith
Dean J. Miller
Ralph Nelson
472 W. Washington St.
Boise, ID 83702-5983

MCI Telecommunications Corporation
Elizabeth Dickerson
1801 Pennsylvania Avenue, NW
Washington, D.C. 20036

Michigan Public Service Commission
Ronald G. Choura
6545 Mercantile Way
P.O. Box 30221
Lansing, MI 48909

Missouri Public Service Commission
Eric Witte
P.O. Box 360
Jefferson City, MO 65102

National Association of Regulatory
Utility Commissioners
Paul Rodgers
Charles D. Gray
1102 ICC Building
P.O. Box 684
Washington, D.C. 20044

Nebraska Public Service Commission
Frank E. Landis
300 The Atrium
Lincoln, NB. 68508

New York State Dept. of Public
Service
William J. Cowan
General Counsel
Three Empire State Plaza
Albany, NY 12223

North Dakota Public Service
Commission
State Capital
Leo M. Reinbold
Susan E. Wefald
Bruce Hagen
Bismarck, ND. 58505

NYNEX Telephone Companies
Their Attorneys
Mary McDermott
Campbell L. Ayling
120 Bloomingdale Road
White Plains, NY 10605

Oklahoma Corporation Commission
Public Utility Division (The PUD)
Maribeth D. Snapp
400 Jim Thorpe Office Building
Oklahoma City, OK 73105

Public Utility Commission of Oregon
Ron Eachus
Joan H. Smith
Roger Hamilton
550 Capitol St., NE
Salem, OR 97310-1380

Pacific Bell & Nevada Bell
James P. Tuthill
Lucille M. Mates
140 New Montgomery St. Rm. 1526
San Francisco, CA 94105

Pacific Bell & Nevada Bell
James L. Wurtz
1275 Pennsylvania Avenue, N.W.
Washington, D.C. 20004

Michael McRae
District of Columbia
Office of People's Counsel
1133 15th St., N.W.
Suite 500
Washington, D.C. 20005

Public Service Commission of
Wisconsin
Cheryl L. Parrino
John T. Coughlin
4802 Sheboygan Avenue
P. O. Box 7854
Madison, WI 53707-7854

Public Utility Commission of Texas
Marta Greytok
Robert W. Gee
Karl R. Rabago
7800 Shoal Creek Boulevard
Austin, TX 78757

Tim Seat
Indiana Office of Utility Consumer
100 N. Senate Avenue
Room N 501
Indianapolis, IN 46204

Philip F. McClelland
Laura Jan Goldberg
Pennsylvania Office of Consumer
Advocate
1425 Strawberry Square
Harrisburg, PA 17120

Charles Beck
Earl Poucher
Florida Office of Public Counsel
812 Claude Pepper Building
111 West Mochian St.
Tallahassee, FL 32399

South Dakota Public Utilities
Commission
Laska Schoenfelder
Kenneth Stofferahn
South Dakota Capitol
Pierre, SD 57501

Southern New England Telephone Co.
Linda D. Hershman
Vice President - External Affairs
227 Church Street
New Haven, CT 06510

The People of the State of
California
and the Public Utilities Commission
Peter Arth, Jr.
Edward W. O'Neil
Ellen S. Levine
505 Van Ness Avenue
San Francisco, CA 94102

United Telephone - Southeast, Inc.
Jay C. Keithley
1850 M Street N.W.
Suite 1100
Washington, DC 20036

Utah Division of Public Utilities
Thomas F. Peel
160 East 300 South
P.O. Box 45807
Salt Lake City, UT 84145-0807

W. Richard Morris
Attorney for United Telephone
P.O. Box 11315
Kansas city, MO 64112

U S West Communications, Inc.
James T. Hannon
1020 19th Street, N.W.
Suite 700
Washington, D.C. 20036

Virginia State Corporation
Commission
Edward C. Addison
William Irby
P.O. Box 1197
Richmond, VA 23209